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| APPLICATION NO. | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO. | CONFIRMATION NO. |
|-----------------|-------------|----------------------|---------------------|------------------|
| 10/631,290 | 07/31/2003 | Ron Keppel | 4097-26 | 2624 |

24256 7590 02/24/2006

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| EXAMINER |
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DEANE JR, WILLIAM J

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| ART UNIT | PAPER NUMBER |
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2642

DATE MAILED: 02/24/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

| | | | |
|------------------------------|--------------------------------------|--------------------------------------|--|
| Office Action Summary | Application No. 10/631,290 | Applicant(s) KEPPEL ET AL. | |
| | Examiner William J. Deane | Art Unit 2642 | |

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 22 November 2005.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-18 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-18 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

CLAIMS

1. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

2. Claim 1 is rejected under 35 U.S.C. 102(b) as being anticipated by Holland (US 5020103).

Regarding claim 1, Holland shows:

A plurality of modular components (see fig. 2) configured to be secured to one another in a vertical arrangement, one of the components comprising a communication device mounting member (i.e. 15) configured for supporting a communication device (20), the components (in fig. 2) are configured such that they may be assembled in a plurality of vertical arrangement (figs. 3a-3d).

3. Claims 10, 19 are rejected under 35 U.S.C. 102(b) as being anticipated by Bartley et al. (US 3752927).

Regarding claim 10, Bartley shows:

A tubular communication device mounting member (10) configured for supporting a communication device (20), and a plurality of modular components (see fig. 2) secured to the tubular member (10) in a vertical, end to end arrangement (see 50, 60, 10).

Regarding claim 19, Bartley shows:

A hollow tube (10) having at least one recessed end wall (for 60) configured for securing a plurality of modular components (60, 50).

4. Claims 1-6, 10-15, 17-20 are rejected under 35 U.S.C. 102(b) as being anticipated by Scolari (US 4489306).

Regarding claim 1, Scolari shows:

A plurality of modular components (see fig. 1) configured to be secured to one another in a vertical arrangement, one of the components comprising a communication device mounting member (i.e. 10) configured for supporting a communication device (22), the components (in fig. 1) are configured such that they may be assembled in a plurality of vertical arrangement (figs. 1-2).

Regarding claim 10, Scolari shows:

A tubular communication device mounting member (10) configured for supporting a communication device (12), and a plurality of modular components (see fig. 1, 14, 16 etc.) secured to the tubular member (10) in a vertical, end to end arrangement.

Regarding claim 19, Scolari shows:

A hollow tube (10) having at least one recessed end wall configured for securing a plurality of modular components (i.e. 16).

Regarding claims 2-6, 8-9, 11-15, 17-18, 20, Scolari shows:

At least one component chosen from the group consisting of an extension sleeve and a light assembly (see 16);

A strobe light assembly (fig. 6);

An end cap (14);

A base member (66);

A mounting bracket (see 74 in fig. 10);

The end walls which is recessed (see 42, 44); and

Fasteners (46).

5. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

6. Claims 7 and 16 are rejected under 35 U.S.C. 103(a) as being unpatentable over Scolari in view of Bartley et al. (US 3752927).

Regarding claims 7 and 16, Scolari shows the components.

Scolari differs from the claimed invention in that it does not show a gasket.

However, Bartley teaches providing a gasket (60) between components.

Hence, it would have been obvious for one of ordinary skill in the art to modify Scolari with a gasket as taught by Bartley, such that to provide a good seal between components (col. 2, lines 61-63 in Bartley).

Response to Arguments

Applicant's arguments filed 11/22/05, have been fully considered but they are not persuasive.

Applicants argue that neither Scolari nor Bartley teach or disclose modular components being stacked vertically in an end to end arrangement. Since applicants

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have failed to define, in the claims, what end is defined as what, the examiner is free to define or call the end whatever he wants as long as it is within reason. For example, there is a top end, bottom end, a front end and a back end to box or square devices. With respect to a pole, one may call the top end to be defined as stated above or the top end could mean any top portion of the pole above the mid height of the pole. The same could be said for the bottom end. With this in mind, it is clear that the claimed limitations read on both Scolari and Bartley. With respect to the interchangeable limitation, note that at least 15 and 15' are interchangeable in Holland.

With respect to claim 10, claim 10 is so broad as to read on Bartley in the following way:

A tubular communication device mounting member 80, which supports the communication device 20;

A plurality of modular components (12, 13 and 14) interchangeably (at least the side walls 13 are interchangeable as well as components 12 and 14, In addition, note that the blocking plates 110, 120 are interchangeable) secured to the tubular communication device mounting member 80, all stacked vertically and end to end. Note, applicants have not defined if all or only some of the components are interchangeable nor have defined other terms such as stacked as it relates to the modular components. For example, must the same or similar components that are interchangeable be stacked vertically end to end? As claimed for example, one could read this limitation as modular components which interchangeable with one component but, not interchangeable with a different interchangeable component. That is, one set of

interchangeable components A and B and a different set of interchangeable components C and D. In Bartley, the side walls are interchangeable and the front and back walls are interchangeable and the blocking plates are interchangeable. The limitation reads on one interchangeable component (the walls) and the blocking plates being stacked vertically and end to end with respect to the walls.


Conclusion

THIS ACTION IS MADE FINAL. Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Bill Deane whose telephone number is (571) 272-7484. In addition, facsimile transmissions should be directed to Bill Deane at facsimile number (571) 273-8300.

13Feb2006


WILLIAM J. DEANE, JR.
PRIMARY EXAMINER